

House Bill 334 (AS PASSED HOUSE AND SENATE)

By: Representatives Knight of the 126<sup>th</sup>, Peake of the 137<sup>th</sup>, O'Neal of the 146<sup>th</sup>, Roberts of the 154<sup>th</sup>, and Mosby of the 90<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to administration of revenue and taxation, so as to change certain provisions regarding forms of payment; to provide for penalties when taxpayers who are required to file electronically do not do so; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to administration of revenue and taxation, is amended in subsection (f) of Code Section 48-2-32, relating to forms of payment, by revising paragraph (2.1) to read as follows:

"(2.1)(A) The commissioner may require that any person or business owing more than \$5,000.00 \$1,000.00 in connection with any return, report, or other document pertaining to sales tax, use tax, withholding tax, or motor fuel distributor tax required to be filed with the department for tax periods beginning on or after July 1, 2006 January 1, 2010, and prior to January 1, 2011, shall pay any such sales tax, use tax, withholding tax, or motor fuel distributor tax liability to the state by electronic funds transfer so that the state receives collectable funds on the date such payment is required to be made. In emergency situations, the commissioner may authorize alternative means of payment in funds immediately available to the state on the date of payment.

(B) The commissioner may require that any person or business owing more than \$500.00 in connection with any return, report, or other document pertaining to sales tax, use tax, withholding tax, or motor fuel distributor tax required to be filed with the department for tax periods beginning on or after January 1, 2011, shall pay any such sales tax, use tax, withholding tax, or motor fuel distributor tax liability to the state by electronic funds transfer so that the state receives collectable funds on the date such payment is required to be made. In emergency situations, the commissioner may

27 authorize alternative means of payment in funds immediately available to the state on  
28 the date of payment."

## 29 **SECTION 2.**

30 Said article is further amended by adding a new Code section to read as follows:

31 "48-2-44.1.

32 (a) When this title requires that any return pertaining to sales tax, use tax, withholding tax,  
33 or motor fuel distributor tax be electronically transmitted or filed, or provides that the  
34 commissioner may by rule or regulation require that any return pertaining to sales tax, use  
35 tax, withholding tax, or motor fuel distributor tax be electronically transmitted or filed, and  
36 a taxpayer fails to electronically transmit or file such return, the taxpayer shall be deemed  
37 to have failed to make the required filing; provided, however, that any such taxpayer whose  
38 electronic filing was first transmitted on or before the due date of the return, including any  
39 extensions, and was rejected shall be allowed to perfect the electronic filing under rules  
40 consistent with those applied by the Internal Revenue Service with respect to rejections of  
41 returns which are required to be electronically transmitted or filed. Such deemed failure  
42 to make the required filing shall also result in the forfeiture of the compensation of dealers  
43 for reporting and paying tax provided in Code Section 48-8-50 since such Code section  
44 provides such compensation only if such return is timely filed. The penalty imposed on the  
45 taxpayer for such failure shall be the greater of \$25.00 for each such return or 5 percent of  
46 the tax due on each such return before application of any payments or credits. Such \$25.00  
47 penalty or 5 percent penalty amount shall be consistent with the penalty imposed on the  
48 failure to file a withholding tax return as provided in Code Section 48-7-126.

49 (b) The commissioner may grant waivers of the requirements of this Code section in cases  
50 of undue hardship.

51 (c) No penalties shall be assessed pursuant to this Code section upon a showing by the  
52 taxpayer or the tax return preparer that the failure was due to reasonable cause and not due  
53 to gross or willful neglect or disregard of the law or of regulations or instructions issued  
54 pursuant to the law."

## 55 **SECTION 3.**

56 This Act shall become effective on January 1, 2010.

## 57 **SECTION 4.**

58 All laws and parts of laws in conflict with this Act are repealed.